

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of _____)	
Implementation of Section 621(a)(1) of _____)	
the Cable Communications Policy Act of 1984 _____)	MB Docket No. 05-
311	
as amended by the Cable Television Consumer _____)	
Protection and Competition Act of 1992 _____)	

COMMENTS OF ACCESS FORT WAYNE

These Comments are filed by Access Fort Wayne in support of the comments filed by the Alliance for Community Media (“Alliance”), the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors (“NATOA”), and other national local government organizations. Like the Alliance, Access Fort Wayne believes that local governments can issue an appropriate local franchise for new entrants into the video services field on a timely basis, just as they have for established cable services providers. In support of this belief, we wish to inform the Commission about the benefits of cable franchising and the Public, Educational, and Government Access (“PEG”) services in our community.

Cable Franchising in Our Community

Community Information

Fort Wayne is a city with a population of 200,000. Our franchised cable provider is Comcast Cablevision. Our community has negotiated cable franchises since 1981.

Our Current Franchise

Our current franchise began on July 1996 and expires on 2011.

Our franchise requires the cable operator to pay a franchise fee to the city of Fort Wayne and Allen County in the amount of 5% of the cable operator's gross

revenues. The revenues for franchise fee purposes are calculated based on the gross revenues of the operator, in accordance with the Federal Cable Act.

Our franchise requires the cable operator to provide the following capacity for public, educational, and/or governmental ("PEG") access channels on the cable system. We currently have 2 channels (or capacity) devoted to public access; 2 channels (or capacity) devoted to educational access; and 1 channel (or capacity) devoted to government access. As per our last franchise renewal, Comcast Cablevision originally provided channels and capacity for the previously 1 public, 2 educational and 1 government access channels. In the franchise agreed upon in 1996, Comcast Cablevision provided for an additional 3 more channels for PEG access. As such, we activated the second public access channel in 1999 and are looking at activating a second government access channel in the coming months. The second public access channel is filling up with programming and we have been programming the county government programming on that channel. As they county government programming has grown, we are activating this second channel to meet the needs of our expanding community.

Our franchise requires that our PEG channels be supported in the following ways by the cable operator: During our original franchise agreement in 1981, the Access Fort Wayne received \$70,000 for equipment to jump-start the access center. In the renewal of 1996, Access Fort Wayne received almost \$500,000 in capital money from Comcast Cablevision to replace much of the older equipment and expand our production base as we at that time started operating the government access channel for the city of Fort Wayne. This much needed capital allowed us to boost our programming capabilities for the community and saw a 500% increase in programming for both the public channels and government access channel.

Our franchise allows for operational support for PEG Access and other public interest services in the amount of 2% of gross revenues. This 2% is divided between 3 access entities, the Access Fort Wayne for public and government access channels, Fort Wayne Community Schools for one educational channel and IPFW University operating the other educational access channel. \$70,000 of this 2% also is available for capital expenses for non-profit organizations utilizing the PEG access channels, but needed additional support for equipment on site.

Our franchise contains the following institutional network ("I-Net") requirements: All municipal buildings, schools and public libraries be connected via the I-net along with 25 other designated public facilities. We use our I-Net facilities in the following ways. Fort Wayne Community Schools and IPFW University use them of interactive training between their respective organizations as does the fire department and police department.

PEG Access Services

Access Fort Wayne has provided access services in our community for 25 years. The number of access channels we operate is 3. In our most recently completed fiscal year, Access Fort Wayne provided 15,000 hours of new original local programming to the cable subscribers. Below are the highlights of our services to the community.

- Video bulletin board with text and graphics for community announcements.
- Interactive bulletin board where, using the telephone, viewers can retrieve specific community information to their TV screen via the government access channel. Part of this contains pictures of animals available for adoption from the Animal Control Center. According to them, they have had 95% adoptions directly related to the community viewing these pictures.
- Coverage of community planning forums, town hall meetings, and neighborhood board meetings.
- Community-produced television programming for special interests (such as - seniors, non-English-speaking, ethnic and cultural groups, youth, people with disabilities, advocacy groups, health care, etc.) Our non-English-speaking programming includes, but is not limited to, the Hispanic/Latino programming, Burmese, Laotian and Vietnamese
- Staff-produced television programming on topics of interest to the local community.
- Dedicated channel capacity specifically for non-profit organizations to air locally produced programming, such as the Fort Wayne Dance Collective, the only modern dance organization in Northeast Indiana.
- Dedicated channel capacity specifically for religious organizations to air locally-produced programming.
- Hotline studios for live, interactive programs that allow local experts to answer viewer questions.
- Free viewing of cable service at selected public sites.
- Grants to produce community programming via a portion of the franchise fee.
- Media literacy and production training for 40 neighborhood based community organizations and individuals.
- Video production courses in all phases of production to over 300 individuals in 2005 alone.

- Video production facilities including studio, field, editing, and remote van.
- Support to Media Training Centers in local schools, enhancing learning opportunities for students. Both IPFW University and St. Francis College's departments of Communication have sent numerous students to our organization for internships. We tailor these for each student to provide them with the best possible education in their interest of study.
- Satellite program reception and redistribution.
- Technical design, installation, and maintenance support.
- Open mic format service such as a free speech soap box.
- Local political coverage, candidate platform statements and candidate debates during campaign season.
- Distribution of community college and university educational programming.
- Gavel-to-gavel coverage of local government meetings/hearings and other select "local" governmental proceedings.
- Viewer questions answered during live call-in segments of government meetings.

The Franchising Process

Under the law, a cable franchise functions as a contract between the local government (operating as the local franchising authority) and the cable operator. Like other contracts, its terms are negotiated. Under the Federal Cable Act it is the statutory obligation of the local government to determine the community's cable-related needs and interests and to ensure that these are addressed in the franchising process – to the extent that is economically feasible. However derived (whether requested by the local government or offered by the cable operator), once the franchise is approved by both parties the provisions in the franchise agreement function as contractual obligations upon both parties.

Competitive Cable Systems

Our community

- has never been approached by a competitive provider to provide service.
- has actively sought out competitive providers, but has not been successful.

- has recently been approached by a Bell Operating Company (Verizon) to provide service. Currently, they are NOT in discussions with the city, as they have not “determined” when they plan on offering video service.

Conclusions

This NPRM is only looking retrospectively at one aspect of the franchising process. We believe that the Commission must look to the future of the public's interest in telecommunication's services. The existing franchising process has provided a basis for public interest services appropriately tailored to each community's local needs. We believe that those services such as PEG should be required of all broadband telecommunications providers.

The local cable franchising process has functioned well in Allen County. As the above information indicates, we are experienced at working with cable providers, the local franchise authority, and community interests to both see that the needs of the local community are met and to ensure that the practical business needs of cable providers are taken into account.

Local cable franchising ensures that local cable operators are allowed access to the rights of way in a fair and evenhanded manner, that other users of the rights of way are not unduly inconvenienced, and that uses of the rights of way, including maintenance and upgrade of facilities, are undertaken in a manner which is in accordance with local requirements. Local cable franchising also ensures that our local community's specific needs are met and that local customers are protected.

Local franchises can also ensure that the cable operator provides the PEG Access services which are responsive to the local community needs as determined through community needs assessments and the local knowledge of educators, local elected officials and local nonprofit organizations.

Local franchises thus provide a means for local government to appropriately oversee the operations of cable service providers in the public interest, and to ensure compliance with applicable laws. There is no need to create a new Federal bureaucracy in Washington to handle matters of primarily local interest.

Local franchises allow each community, including ours, to have a voice in how local cable systems will be implemented and what features (such as PEG access, institutional networks or local emergency alerts, etc.) will be available to meet local needs. These factors are equally present for new entrants as for existing users.

Access Fort Wayne therefore respectfully requests that the Commission take this opportunity to reaffirm the primacy of local government authority over franchising and should make clear that imposition on a new entrant of PEG Access,

consumer protections and other public interest services requirements that are equivalent to those of the incumbent does not constitute an unreasonable refusal to award an additional competitive franchise within the meaning of federal law.

The PEG Access model should be strengthened and applied to new technologies, assuring that localism and community participation are not displaced by commercial interests.

The nation would be well served by a policy of “Community Reinvestment” through PEG Access that includes funds and bandwidth and/or spectrum that will be used for public purposes by:

1. Allowing the local community which owns the public rights-of-way to franchise and determine the best use of the community’s property;
2. Dedicating ten percent of the public airwaves and capacity on communication facilities that occupy public rights-of-way to PEG use for free speech, diverse points of view, local programs, community based education and political speech;
3. Mandating funding of five percent of gross revenues above and beyond any franchise fee to local authorities from all infrastructure and service providers and spectrum licensees to support PEG equipment, facilities, training and services; and,
4. Making PEG Access universally available to any consumer of advanced telecommunications services capable of full-motion video.

Respectfully submitted,

Access Fort Wayne

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